

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TUMWATER ESTATES COMMUNITY, LLC, a
Washington limited liability company; TUMWATER
ESTATES INVESTORS, a California limited partnership;
VELKOMMEN MOBILE PARK, LLC, a Washington
limited liability company; and MANUFACTURED
HOUSING COMMUNITIES OF WASHINGTON, a
Washington non-profit corporation,

Plaintiffs,

v.

CITY OF TUMWATER, a municipal corporation,

Defendant.

No. 3:09-cv-05312-BHS

SUPPLEMENTAL
DECLARATION OF
WILLIAM SCHMICKER IN
SUPPORT OF PARTIAL
SUMMARY JUDGMENT

WILLIAM SCHMICKER declares and states as follows:

1. I am over the age of eighteen, competent to testify, and familiar with the facts
herein.

2. I am a partner in plaintiff Tumwater Estates Investors, which owns Tumwater
Estates, a manufactured housing community located in Tumwater, Washington. I have
purchased, sold, and managed manufactured home communities since 1977.

3. We purchased Tumwater Estates well before Tumwater's manufactured home
park ordinances took effect, and we anticipated using our property as a mobile home park so
long as that use was economically viable. We expected to be able to turn to other economically

1 productive uses at our discretion or to sell it if it became economically unviable. Our plan was to
2 hold onto the property until the highest and best use of the property changed and then we
3 expected to realize our economic expectation by either selling the property or redeveloping it for
4 commercial purposes

5 4. I purchased my interest in Tumwater Estates for its current rental revenue and for
6 a meaningful choice of other land uses that generate income or increase its resale value. I did not
7 expect that either the County or the City would require that I continue to use the property as a
8 manufactured home community in perpetuity, or that they would effectively accomplish the
9 same result by allowing me to choose between using my property for one economically viable
10 use, or other mostly public uses that do not generate income.
11

12 5. I have always expected that I would share in my portion of public obligations, and
13 I am proud to have offered affordable housing at Tumwater Estates and other manufactured
14 home communities since 1977. But, I never expected that I would be required by Tumwater to
15 shoulder more than my share of any public obligation to provide affordable housing, or that
16 Tumwater would later exercise its zoning power to require that I either continue to make my
17 property available as affordable housing, or "choose" another public use that is not viable.
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19 6. When I invested in Tumwater Estates, I did so to diversify my investments in
20 California manufactured housing communities that are subject to significant governmental
21 regulation, including rent control. At the time, neither Tumwater nor any other local government
22 in Washington required that I choose between one use that generates revenue, and other uses
23 which generate little or no revenue. I chose to invest in Tumwater Estates specifically because
24 Washington and Tumwater did not have rent control or legal regimes that restricted the property
25 rights of park owners. I had no reason to believe that would change until Tumwater passed its
26

Supp. Declaration of William Schmicker - 2

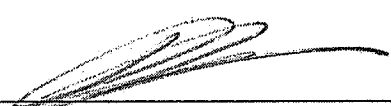
Talmadge/Fitzpatrick
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1 MHP Ordinance.

2 7 Before Tumwater passed its MHP Ordinance, my property rights did not allow
3 Tumwater to require that I choose between realizing an income from the property, or realizing no
4 income in any other permitted use. After Tumwater passed its ordinance, I now have a choice
5 that is no choice. The difference is what I expected when I invested in Tumwater Estates, and do
6 not now have. The difference is also how Tumwater Estates has been damaged by the MHP
7 ordinance. I commenced this action to recover that damage and simply get what I had before
8 Tumwater enacted its MHP ordinance.

9
10 I declare under penalty of perjury under the laws of the State of Washington that the
11 foregoing is true and correct.

12 Executed at Walnut Creek, California this 3 day of March, 2011.

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15 _____
16 William Schmicker
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